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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,546	02/16/2001	Sonya Franklin	875.037US1	5198
21186	7590	02/05/2004		
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER PATTERSON, CHARLES L JR	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**BEST AVAILABLE COPY**

**Advisory Action**

Application No.

09/785,546

Applicant(s)

FRANKLIN, SONYA

Examiner

Charles L. Patterson, Jr.

Art Unit

1652

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: of reason addressed below.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.


Claim(s) objected to: None.

Claim(s) rejected: 1,2,4-18,27-29.

Claim(s) withdrawn from consideration: 3,19-26 and 30-33.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

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Charles L. Patterson, Jr.  
Primary Examiner  
Art Unit: 1652

Continuation of 2. NOTE: The amendment to page 23, line 20 should apparently be to page 8, line 20. Applicants state that the sequence of "engrailed" is well known and point to three submitted sequences. The three sequence have the last 13 residues of P3 in Figure 2 except for having "H" instead of "W". The other residues of P3 in Figure 2 are not found. They then state that the R is at position 43 in the Antennapedia homeodomain and submit another sequence. This sequence is entitled "Homeotic antennapedia protein" and not engrailed protein and residue 43 is "h". There is no explanation as to why the recitation previously referred to on page 50, line 27 is 34 residues and P3 (SEQ ID NO:2) is 33 residues. The consideration of the three references listed on page 10 in the paragraph referring to objection "7)" would require more than nominal further consideration and thus will not be considered at this time.

Continuation of 3. Applicant's reply has overcome the following rejection(s): The objection to pages 51 and 56 referred to as "4) and 5) in applicants reply. The objection referred to as "6)" is probably overcome, but this will be considered further if the other objections are overcome..

Continuation of 10. Other: The 1449 submitted 3/8/02 was filed on 3/15/02 and was attached to the other 1449s mailed with the action of 9/12/02. If applicant does not have this page the examiner should be notified and he will fax a copy of the page..

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